



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Notice

PN 97-101
July 27, 2004

REPRESENTATIONS AND CERTIFICATIONS – OTHER THAN COMMERCIAL ITEMS AND MISCELLANEOUS ADMINISTRATIVE REVISIONS

BACKGROUND: NASA has modified its current practice for issuance and maintenance of the NASA FAR Supplement (NFS) by only publishing in the Federal Register those regulations which may have a significant effect beyond the internal operating procedures of the Agency or have a significant cost or administrative impact on contractors or offerors and are subject to public comment. The NFS will continue to integrate into a single document both regulations subject to public comment and internal Agency guidance and procedures that do not require public comment. The single official NASA-maintained version of the NFS is available on the Internet. NASA personnel must comply with all regulatory and internal guidance and procedures contained in the NFS.

The periodic review of the NFS conducted in concert with the above new practice identified various administrative and editorial changes. In addition to the changes required for completeness and understanding of regulatory text, editorial and administrative changes are made to internal guidance and procedures to update document references and titles and organizational designations.

Finally, FAC 2001-23 corrected an ambiguity in the definition of service-disabled veteran-owned small business (SDVOSB) concern. Consistent with the FAR clarification 1852.213-70 is revised to reflect the change in definition of SDVOSB.

ACQUISITIONS AFFECTED BY CHANGES: The change to 1852.213-70 affects all non-commercial acquisitions between \$2,500 and \$100,000.

ACTION REQUIRED BY CONTRACTING OFFICERS: Use the revised provision 1852.213-70, Offeror Representations and Certifications—Other Than Commercial Items, in all non-commercial solicitations between \$2,500 and \$100,000 issued after July 27, 2004.

CLAUSE CHANGES: 1852.213-70, Offeror Representations and Certifications – Other Than Commercial Items, is amended by revising the date to JULY 2004 and in paragraph (a), revising paragraph (1)(ii) of the definition of “Service-disabled veteran-owned small business concern.’

PARTS AFFECTED: Parts 1842, 1845, 1846, 1847, 1850, 1851, and 1852.

REPLACEMENT PAGES: You may use the enclosed pages to replace 42:9, 42:10, 42:11, 42:12, 45:5, 45:6, 45:11, 45:12, 46:1, 46:2, 46:9, 46:10, 47:1, 47:2, Part 1850, 51:3, 52:9, and 52:10 of the NFS.

TYPE OF RULE AND PUBLICATION DATES: These changes were published as final rules in the Federal Register (69 FR 44609 - 44611) on July 27, 2004.

HEADQUARTERS CONTACT: Celeste Dalton, Code HK, (202) 358-1645, email: Celeste.M.Dalton@nasa.gov.

James A. Balinskas
Director, Contract Management Division

Enclosures

(b) If deductions are in excess of contractor claims, recovery may be made through a direct refund from the contractor, in the form of a check payable to NASA, or by a set-off deduction from the voucher(s) submitted by the contractor under any other contract, unless those contracts contain a "no set-off" provision. If a set-off is affected, the voucher(s) from which the deduction is made should be annotated to identify the contract and appropriation affected and the applicable NASA Form 456.

Subpart 1842.12--Novation and Change-of-Name Agreements

1842.1203 Processing agreements.

(b) The installation shall immediately notify the Headquarters Office of Procurement (Code HS) of the request to execute a novation (successor-in-interest) or change-of-name agreement.

(h) The contracting officer shall forward one copy of the agreement to Code HS.

1842.1203-70 DOD processing of novation and change-of-name agreements on behalf of NASA.

(a) Copies of novation and change-of-name agreements executed by DOD on behalf of NASA are maintained by the Headquarters Office of Procurement (Code HS).

(b) Code HS is the Agency point of contact for issues related to proposed novation agreements. With the concurrence of Code HS, an installation may execute a separate agreement with the contractor.

Subpart 1842.13--Suspension of Work, Stop-Work Orders, and Government Delay of Work

1842.1305 Contract clauses.

(b) FAR 52.242-15, Stop-Work Order, shall not be used in solicitations or contracts for research performed by educational or other nonprofit institutions.

Subpart 1842.14--Traffic and Transportation Management

1842.1405 Discrepancies incident to shipment of supplies.

(a) NASA personnel shall also report discrepancies and adjust claims for loss of and damage to Government property in transit in accordance with [NPGNPR](#) 6200.1, NASA Transportation and General Traffic Management.

Subpart 1842.15--Contractor Performance Information

1842.1501 General.

Communications with contractors are vital to improved performance and this is NASA's primary objective in evaluating past performance. Other objectives include providing data for future source selections. While the evaluations must reflect both shortcomings and achievements during performance, they should also elicit from the

contractors their views on impediments to improved performance emanating from the Government or other sources.

1842.1502 Policy.

(a) Within 60 days of every anniversary of the award of a contract having a term exceeding one year, contracting officers must conduct interim evaluations of performance on contracts subject to FAR Subpart 42.15 and this subpart. Interim evaluations are not required on contracts whose award anniversary is within 3 months of the end of the contract period of performance. The final evaluation will include an evaluation of the period between the last interim evaluation and the end of the contract period of performance. Interim performance evaluations are optional for SBIR/STTR Phase II contracts. A final evaluation summarizing all performance must be conducted on all contracts.

1842.1503 Procedures.

(a) The contracting officer shall determine who (e.g., the technical office or end users of the products or services) evaluates appropriate portions of the contractor's performance. The evaluations are subjective in nature. Nonetheless, the contracting officer, who has responsibility for the evaluations, shall ensure that they are reasonable.

(b) NASA Form 1680, entitled, "Evaluation of Performance," shall be used to document evaluations. This provides for a five-tiered rating (using the definitions for award fee evaluation scoring found in 1816.405-275) covering the following attributes: quality, timeliness, price or control of costs (not required for firm-fixed-price contracts or firm-fixed-price contracts with economic price adjustment), and other considerations. Evaluations used in determining award fee payments satisfy the requirements of this subpart and do not require completion of NASA Form 1680. In addition, hybrid contracts containing both award fee and non-award fee portions do not require completion of NASA Form 1680. Contracting Officers shall ensure that the Government discusses all evaluations with contractors and shall record the date and the participants on the evaluation form. Contracting officers shall sign and date the evaluation after considering any comments received from the contractor within 30 days of the contractor's receipt of the evaluation. If a contractor in its timely comments disagrees with an evaluation and requests a review at a level above the contracting officer, it shall be provided within 30 days. While the FAR forbids use of the evaluations for source selections more than three years after contract completion, they shall nevertheless be retained in the contract file as provided in FAR 4.8, Government Contract Files.

Subpart 1842.70--Additional NASA Contract Clauses

1842.7001 Observance of legal holidays.

(a) The contracting officer shall insert the clause at 1852.242-72, Observance of Legal Holidays, in contracts when work will be performed at a NASA installation.

(b) The clause shall be used with its Alternate I in cost-reimbursement contracts when it is desired that contractor employees not have access to the installation during Government holidays. This alternate may be appropriately modified for fixed-price contracts.

(c) The clause may be used with its Alternate II in cost-reimbursement contracts when it is desired that administrative leave be granted contractor personnel in special circumstances, such as inclement weather or potentially hazardous conditions. This alternate may be appropriately modified for fixed-price contracts.

1842.7002 Travel outside of the United States.

The contracting officer shall insert the clause at 1852.242-71, Travel Outside of the United States, in cost-reimbursement solicitations and contracts where a contractor may travel outside of the United States and it is appropriate to require Government approval of the travel.

1842.7003 Emergency medical services and evacuation.

The contracting officer must insert the clause at 1852.242-78, Emergency Medical Services and Evacuation, in all solicitations and contracts when employees of the contractor are required to travel outside the United States or to remote locations in the United States.

Subpart 1842.71--Submission of Vouchers

1842.7101 Submission of vouchers.

(a) Vouchers shall be submitted in accordance with the clause at 1852.216-87, Submission of Vouchers for Payment.

(b) The auditor shall retain an unpaid copy of the voucher.

(c) When a voucher submitted in accordance with the clause at 1852.216-87 contains one or more individual direct freight charges of \$100 or more, an additional copy of Standard Form 1034A and Standard Form 1035A shall be submitted and marked for return to the contractor after payment. This copy shall be transmitted quarterly by the contractor with the freight bills to the General Services Administration. When a voucher is identified as the "Completion Voucher," an additional copy shall be submitted for transmittal to the NASA contracting officer.

Subpart 1842.72--NASA Contractor Financial Management Reporting

1842.7201 General.

(a) Contracting officer responsibilities.

(1) Contracting officers must ensure contracts require cost reporting consistent with both policy requirements and project needs. Contracting Officers shall monitor contractor cost reports on a regular basis to ensure cost data reported is accurate and timely. Adverse trends or discrepancies discovered in cost reports should be pursued through discussions with financial and project team members.

(2) Whenever cost performance threatens contract performance, contracting officers shall require corrective action plans from the contractors.

(b) Reporting requirements.

(1) Use of the NASA Contractor Financial Management Reports, the NASA Form 533 series, is required on cost-type, price redetermination, and fixed-price incentive contracts when the following dollar, period of performance, and scope criteria are met:

Contract value/scope	Period of Performance	533M	533Q
\$500K to \$999K	1 year or more	Required	Optional
\$1,000,000 and over	Less than 1 year	Required	Optional
\$1,000,000 and over	1 year or more	Required	Required

(2) When it is probable that a contract will ultimately meet the criteria in paragraph (b)(1) of this section through change orders, supplemental agreements, etc., the reporting requirement must be implemented in the contract based on the estimated final contract value at the time of award.

(3) NF 533Q reporting may be waived by the contracting officer, with the concurrence of the center chief financial officer and cognizant project manager, for support service or task order contracts, when NF 533M reports and other data are sufficient to ensure accurate monthly cost accruals, evaluation of the contractor's cost performance, and forecasting of resource requirements.

(4) Where a specific contractual requirement differs from the standard system set forth in [NPGNPR 9501.2](#), NASA Contractor Financial Management Reporting, but is determined to be in the best interests of the Government and does not eliminate any of the data elements required by the standard NF 533 formats, it may be approved by the contracting officer with the concurrence of the center chief financial officer and the project manager. Such approval shall be documented and retained, with the supporting rationale, in the contract file.

(5) The contractor's internal automated printout reports may be substituted for the 533 reporting formats only if the substitute reports contain all the data elements that would be provided by the corresponding 533's. The contracting officer shall coordinate any proposed substitute with the installation financial management office.

(c) Contract requirements.

(1) Reporting requirements, including a description of reporting categories, shall be detailed in the procurement request, and reports shall be required by inclusion of the clause prescribed in 1842.7202. The contract schedule shall include report addressees and numbers of copies. Reporting categories shall be coordinated with the center financial management office to ensure that data required for agency cost accounting will be provided by the reports. Reporting dates shall be in accordance with [NPGNPR 9501.2](#), except that earlier submission is encouraged whenever feasible. No due date shall be permitted which is later than the date by which the center financial management office needs the data to enter an accurate monthly cost accrual in the accounting system.

(2) The contractor shall be required to submit an initial report in the NF 533Q format, time phased for the expected life of the contract, within 30 days after authorization to proceed has been granted. NF 533M reporting will begin no later than 30 days after incurrence of cost. NF 533Q reporting begins with the initial report.

1842.7202 Contract clause.

The contracting officer shall insert the clause at 1852.242-73, NASA Contractor Financial Management Reporting, in solicitations and contracts when any of the NASA Form 533 series of reports is required from the contractor.

Subpart 1842.73--Audit Tracking and Resolution

1842.7301 NASA external audit follow-up system.

(a) This section implements OMB Circular No. A-50 and NASA Policy Directive (NPD) 1200.10 "Internal Management Controls and Audit Liaison and Followup", which provide more detailed guidance. Recommendations from external audits (OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Institutions) shall be resolved by formal review and approval procedures analogous to those at 1815.406-171.

(b) The external audit followup system tracks all contract and OMB Circular No. A-133 audits where NASA has resolution and disposition authority. The objective of the tracking system is to

profit is contemplated) for repair, modification, rehabilitation, or other servicing of Government property, if such property is to be furnished to a contractor for that purpose and no other Government property is to be furnished. The contracting officer shall not require additional insurance under the clause unless the circumstances clearly indicate advantages to the Government.

(d) The contracting officer shall insert the clause at 1852.245-73, Financial Reporting of NASA Property in the Custody of Contractors, in cost reimbursement contracts unless all property to be provided is subject to the clause at 1852.245-71, Installation-Accountable Government Property. The clause shall also be included in other types of contracts when it is known at award that property will be provided to the contractor or that the contractor will acquire property title to which will vest in the Government prior to delivery.

(e) When approved by the Logistics Management Division of the Headquarters Office of Infrastructure and Management (Code OJG), the contracting officer shall insert the clause at 1852.245-74, Contractor Accountable On-Site Government Property, in lieu of the clause at 1852.245-71, in solicitations and contracts when accountability rests with an on-site contractor. The contracting officer's written request for approval shall include a determination of costs that will be (1) avoided (e.g., additional costs to the installation's property management systems and staffing) and (2) incurred (e.g., reimbursable costs of the contractor to implement, staff, and operate separate property management systems on-site, and resources needed for performance of, or reimbursement for, property administration) under contractor accountability.

(f) The contracting officer shall insert the clause at 1852.245-75, Title to Equipment, in solicitations and contracts where the clause at FAR 52.245-2 with its Alternate II or 52.245-5 with its Alternate I is used.

(g) The contracting officer shall insert the clause at 1852.245-76, List of Government-Furnished Property, in solicitations and contracts if the contractor is to be accountable under the contract for Government property.

(h) The contracting officer shall insert the clause at 1852.245-77, List of Installation-Accountable Property and Services, in solicitations and contracts that require performance at the center and authorize contractor use of property within the physical borders of the center.

(i) The contracting officer shall insert the provision at 1852.245-79, Use of Government-Owned Property, in all solicitations when Government property may be used by the contractor.

(j) The contracting officer shall insert the clause at 1852.245-80, Use of Government Production and Research Property on a No-Charge Basis, in solicitations and contracts when Government property (real property, commercially available equipment, special test equipment, or special tooling) accountable under another contract(s) is authorized for use.

1845.106-71 Plant reconversion and plant clearance.

The Assistant Administrator for Procurement (Code HS) is the approval authority for any solicitation provision or contract clause that would defer negotiation of costs for plant reconversion or plant clearance until after award.

Subpart 1845.3--Providing Government Property to Contractors

1845.301 Definitions.

"Facilities", as defined in the FAR, also include real property and commercially available equipment, whether owned or leased by NASA or reimbursed as a cost under the contract.

"Provide", as used in this subpart in such phrases as "Government property provided to the contractor" and "Government-provided property," means either to furnish, as in "Government-furnished property," or to permit to be acquired, as in "contractor-acquired property." See FAR 45.101 for definitions of "contractor-acquired property" and "Government-furnished property."

1845.302 Providing facilities.

1845.302-1 Policy.

(a) In addition to the exceptions listed in FAR 45.302-1(a), existing NASA-owned facilities (whether contractor acquired or Government furnished) being used by a contractor may be retained for the remainder of the contract period and furnished under any follow-on contract for the same effort if the contracting officer determines that to do so would be in the best interest of the Government, provided that:

(i) The facilities are required to accomplish the purpose of the contract;

(ii) The contract contains a provision requiring the contractor to replace any of the facilities that reach the end of their useful life during the contract period, or which are beyond economical repair, if the facilities are still needed for contract performance. Such replacements shall be made with contractor-owned facilities. The contract provision shall also expressly prohibit contractor acquisitions of facility items for the Government, unless specifically authorized by the contract or consent has been obtained in writing from the contracting officer pursuant to FAR 45.302-1(a);

(iii) Consideration has been given to any alternative uses by Government personnel within the agency, in consultation with the center industrial property officer; and

(iv) The contracting officer documents the file with a detailed explanation of why continued furnishing of the facilities is in the best interest of the Government.

(a)(4)(A) The procurement officer is designated to make the determinations and findings (D&F) authorizing the use of Government facilities. See 1845.302-71 for D&F format.

(B) The requirements for a D&F and a prospective contractor's written statement asserting inability to obtain facilities are not applicable in the circumstances listed under FAR 45.302-1(d). In these cases, the contracting officer shall document the contract file with the rationale for providing the facilities, including the reason for not requiring the contractor to provide them.

1845.302-2 Facilities contracts.

Unless termination would be detrimental to the Government's interests, contracting officers shall terminate facilities contracts when the Government property is no longer required for the performance of Government contracts or subcontracts. Contracting officers shall not grant the contractor the unilateral right to extend the time during which it is entitled to use the property provided under the facilities contract.

1845.302-70 Securing approval of facilities projects.

(a) Pursuant to NMI 7330.1, Delegation of Authority - Approval Authorities for Facility Projects, the contracting officer must approve facilities projects involving leasing, construction, expansion, modification, rehabilitation, repair, or replacement of real property.

(b) The contracting officer's written authorization is required before any change is made in the scope or estimated cost of any facilities project.

1845.302-71 Determination and findings.

1845.505-14 Reports of Government property.

(b) When the clause at 1852.245-73, Financial Reporting of NASA Property in the Custody of Contractors, is included in the contract, the contractor shall submit NASA Form 1018, NASA Property in the Custody of Contractors, in accordance with the instructions on the form and 1845.71. Contractor property control systems shall distinguish between Government furnished and contractor acquired property for purposes of reporting the acquisition cost in the property classifications shown in FAR 45.505-14(a)(1) through (5).

1845.508 Physical inventories.

NASA contractors shall reconcile inventories with the official property records and submit reports to the property administrator within 30 days after inventory completion. The contractor shall investigate all losses of property and discoveries of unrecorded property to determine the causes of the discrepancy and actions needed to prevent its recurrence.

Subpart 1845.6--Reporting, Redistribution, and Disposal of Contractor Inventory

1845.604 Restrictions on purchase or retention of contractor inventory.

(1) No contractor may sell contractor inventory to persons known by it to be NASA or DOD personnel who have been engaged in administering or terminating NASA contracts.

(2)(i) The contractor's or subcontractor's authority to approve the sale, purchase, or retention of Government property on a contract which is excess to needs after Government reutilization screening at less than cost by a subcontractor, and the subcontractor's authority to sell, purchase, or retain such property at less than cost with the approval of the contractor or next higher-tier subcontractor does not include authority to approve --

(A) A sale by a subcontractor to the contractor, the next higher-tier subcontractor, or their affiliates; or

(B) A sale, purchase, or retention by a subcontractor affiliated with the contractor or next higher-tier subcontractor.

(ii) Each excluded sale, purchase, or retention requires the written approval of the plant clearance officer.

1845.606 Inventory schedules.

1845.606-1 Submission.

See 1845.608 for intra-agency screening of excess contractor-held property.

1845.607 Scrap.

1845.607-1 General.

1845.607-170 Contractor's approved scrap procedure.

(a) When a contractor has an approved scrap procedure, certain property may be routinely disposed of in accordance with that procedure and not processed under this section.

(b) The center property administrator is authorized to approve the contractor's scrap procedure. Before approval, the plant clearance officer shall review the procedure, particularly regarding sales. The plant clearance officer shall ensure that the procedure contains adequate requirements for inspecting and examining items to be disposed of as scrap. When the contractor's procedure does not require physical segregation of Government-owned scrap from contractor-owned scrap and separate disposal, care shall be exercised to ensure that a contract change that generates a large quantity of property does not result in an inequitable return to the Government. In such a case, the property administrator shall make a determination as to whether separate disposition of Government scrap would be appropriate.

(c) A plant clearance case shall not be established for property disposed of through the contractor's approved scrap procedure.

(d) Property in scrap condition, other than that disposed of through the contractor's approved scrap procedure, shall be reported on appropriate inventory schedules for disposition in accordance with the provisions of FAR Part 45 and 1845.

1845.607-2 Recovering precious metals.

(b) Silver, gold, platinum, palladium, rhodium, iridium, osmium, and ruthenium; scrap bearing such metals; and items containing recoverable quantities of them shall be reported to the Defense Reutilization and Marketing Service, DRMS-R, Federal Center, Battle Creek, MI 49017-3092, for instructions regarding disposition.

1845.608 Screening of contractor inventory.

1845.608-1 General.

(a) Property Disposal Officers (PDOs) are the center focal points for intra-agency reutilization screening. PDOs shall acknowledge receipt of inventory schedules within 30 days and simultaneously provide the plant clearance officer a NASA screening completion/release date. Screening shall be accomplished in accordance with [NPGNPR 4300.1](#).

1845.608-6 Waiver of screening requirements.

The Director of the Logistics Management Office of the Headquarters Office of Management Systems and Facilities (Code JLG) is designated to authorize exceptions to intra-agency screening requirements.

1845.610 Sale of surplus contractor inventory.

1845.610-3 Proceeds of sale.

The plant clearance officer shall maintain an open suspense record until verifying that credit has been applied, unless another Government representative has specifically assumed this responsibility.

1845.610-4 Contractor inventory in foreign countries.

NASA procedures for disposal are in [NPGNPR 4300.1](#), [NASA Personal Property Disposal Procedures and Guidelines](#).

1845.613 Property disposal determinations.

The center property disposal officer (PDO) shall review the determinations in accordance with [NPGNPR](#) 4300.1.

PART 1846
QUALITY ASSURANCE

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PART 1846
QUALITY ASSURANCE

1846.000 Scope of part.

The Government has a duty to assure that appropriated funds are spent wisely. That duty is fulfilled in part through surveillance. Surveillance may be conducted through "insight" (i.e., monitoring of selected metrics and/or milestones) or "oversight" (i.e., Government review and concurrence with contractor decisions). The decision to use insight or oversight is based on an assessment of the risk inherent in the activity being surveilled. Surveillance must be conducted whether or not the contract effort has been structured as performance-based.

Subpart 1846.3--Contract Clauses

1846.370 NASA contract clauses.

(a) The contracting officer shall insert the clause at 1852.246-70, Mission Critical Space System Personnel Reliability Program, in solicitations and contracts involving critical positions designated in accordance with 14 CFR 1214.5, Mission Critical Space System Personnel Reliability Program.

(b) The contracting officer shall insert the clause at 1852.246-73, Human Space Flight Item, in solicitations and contracts for human space flight hardware and flight-related equipment if the highest available quality standards are necessary to ensure astronaut safety.

Subpart 1846.4--Government Contract Quality Assurance

1846.401 General.

(a) The quality assurance surveillance plan (QASP) which the project office prepares in conjunction with the statement of work is preliminary. It reflects the Government's surveillance approach relative to the perceived programmatic risk, and is written at a general rather than specific level because the risks will not be completely identified at that time. After contract award, contracting officers shall ensure that the QASP is revised to reflect the risks associated with the successful proposal. This final QASP shall not be included in the contract, but should be periodically reviewed to ensure its currency.

1846.470 Contract clause.

The contracting officer may insert a clause substantially as stated at 1852.246-71, Government Contract Quality Assurance Functions, in solicitations and contracts to specify the location(s) of quality assurance functions.

Subpart 1846.6--Material Inspection and Receiving Reports

1846.670 Introduction.

1846.670-1 General.

(a) This subpart contains procedures and instructions for use of the Material Inspection and Receiving Report (MIRR) (DD Form 250 series).

(b) MIRRs are used to document CQA, acceptance and commercial shipping/packing lists used to evidence Government contract quality of supplies and services, and shipments. MIRRs are not used for --

(5) If applicable, bill of lading number and mode of shipment code.

1846.672-4 Correction instructions.

When, because ~~of~~of errors or omissions, it is necessary to correct the MIRR after distribution, it shall be revised by correcting the original master and distributing the corrected form. The corrections shall be made as follows:

(a) Circle the error and place the corrected information in the same block. If space is limited, enter the corrected information in Block 16, referencing the error page and block.

(b) When corrections are made to Blocks 15 or 17, enter the words **"CORRECTIONS HAVE BEEN VERIFIED"** on page 1. The authorized Government representative shall date and sign immediately below the statement. This verification statement and signature are not required for other corrections.

(c) MIRRs shall not be corrected for Block 19 and 20 entries.

(d) Clearly mark pages of the MIRR requiring correction with the words **"CORRECTED COPY"**, avoiding obliteration of any other entries. Even though corrections are made on continuation sheets only, also mark page 1 **"CORRECTED COPY"**.

(e) Page 1 and only those continuation pages marked **"CORRECTED COPY"** shall be distributed to the initial distribution. A complete MIRR with corrections shall be distributed to new addressee(s) created by error corrections.

1846.672-5 Invoice instructions.

The Government encourages, but does not require, contractors to use copies of the MIRR as an invoice in lieu of a commercial form. If the MIRR is used as an invoice, four copies shall be prepared and forwarded to the payment office as follows:

(a) Complete Blocks 5, 6, 19, and 20.

(b) Mark, in letters approximately one inch high, the first copy **"ORIGINAL INVOICE"** and the remaining three copies **"INVOICE COPY"**.

(c) Forward the four copies to the payment office (Block 12 address).

1846.672-6 Packing list instructions.

Copies of the MIRR may be used as a packing list. The packing list copies shall be in addition to the copies of the MIRR required for distribution (see 1846.673) and shall be marked "PACKING LIST".

1846.672-7 Receiving instructions.

When the MIRR is used for receiving purposes, procedures shall be as prescribed by local directives. If acceptance or CQA and acceptance of supplies are required upon arrival at destination, see Block 21B for instructions.

1846.673 Distribution of DD Forms 250 and 250c.

(a) DD Forms 250 and 250c shall be distributed in accordance with installation procedures.

(b) The contractor is responsible for distributing DD Forms 250 and 250c in accordance with the provisions of the contract or instructions of the contracting officer.

1846.674 Contract clause.

The contracting officer shall insert the clause at 1852.246-72, Material Inspection and Receiving Report, in solicitations and contracts, except those using simplified acquisition procedures or where the only deliverable items are technical or scientific reports. Insert the number of copies to be prepared. Paragraph (a) may be changed to specify advance copies or separate distribution of the DD Form 250.

Subpart 1846.7--Warranties

1846.703 Criteria for use of warranties.

1846.703-70 Additional criteria.

In deciding whether to use a warranty clause, at least the following factors shall be considered in addition to those at FAR 46.703:

(a) Cost of correction or replacement, either by the contractor or by another source, in the absence of a warranty;

(b) The warranty as a deterrent against the furnishing of defective or nonconforming supplies;

(c) Whether the contractor's quality program is reliable enough to provide adequate protection without a warranty, or, if not, whether a warranty would cause the contractor to institute an effective quality program;

(d) Reliance on "brand-name" integrity; and

(e) Whether a warranty is regularly given for a commercial component of a more complex end item.

1846.704 Authority for use of warranties.

(1) A warranty clause may be used when it is found to be in the best interests of the Government, after an analysis of the factors listed in 1846.703-70 and FAR 46.703.

(2) Except for the warranty of commercial items (see FAR 12.404 and 46.709), and warranties contained in Federal, military, or construction specifications, the decision to use a warranty clause or to include a warranty provision in a specification other than a Federal, military, or construction specification shall be made only upon the written authorization of the procurement officer or a designee. This decision may be made either for individual acquisitions or classes of acquisitions.

(3) Warranties required by applicable architect-engineer specifications shall be included in construction contracts.

1846.770 Administration.

When notified of a defect in warranted items, the contracting officer should ascertain whether the warranty is currently in effect and ensure that the contractor is given proper and timely notice of the defect.

**PART 1847
TRANSPORTATION**

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**PART 1847
TRANSPORTATION**

**Subpart 1847.2 --Contracts for Transportation or for
Transportation-Related Services**

1847.200 Scope of subpart.

1847.200-70 Charter of aircraft.

When acquiring aircraft by charter, contracting officers shall comply with NPR 7900.3, Aircraft Operations Management.

Subpart 1847.3--Transportation in Supply Contracts

1847.304 Determination of delivery terms.

1847.304-3 Shipments from CONUS for overseas delivery.

1847.304-370 NASA export privilege.

NASA has export licensing privileges for moving commodities to foreign destinations. Contracting officers shall request the advice of the Center Export Administrator to ensure full and appropriate use is made of these privileges.

1847.305 Solicitation provisions, contract clauses, and transportation factors.

1847.305-10 Packing, marking, and consignment instructions.

In contracts providing for delivery f.o.b. origin and shipment under Government bills of lading, consignment instructions may be limited to the mail address of the consignee (receiving activity), provided the contract instructions state: "Shipment other than mail shall be consigned as indicated on the Government bill of lading furnished to the contractor."

1847.305-13 Transit arrangements.

(a)(3)(ii) When the provision at FAR 52.247-56 is used, the solicitation shall state that offers will be evaluated on the basis of the lowest overall cost to the Government, including transportation costs to NASA from point of origin to final destination, taking into account any applicable transit privileges.

1847.305-70 NASA contract clauses.

(a) The contracting officer may insert a clause substantially as stated at 1852.247-72, Advance Notice of Shipment, in solicitations and contracts when the f.o.b. point is destination and special Government assistance is required in the delivery or receipt of the items.

(b) The contracting officer shall insert a clause substantially as stated at 1852.247-73, Bills of Lading, in f.o.b. origin solicitations and contracts.

Subpart 1847.5--Ocean Transportation by U.S.-Flag Vessels

1847.506 Procedures.

(d)(i) The transportation officer in each installation shall establish and maintain a register to reflect adherence to the Cargo Preference Act. The register shall contain data related to shipments made by the installation and by NASA contractors. Where no transportation officer is available, it shall be maintained by the contracting office. The register shall contain pertinent details of ocean shipments including, but not limited to, the ports of origin and destination of shipments, commodity descriptions, gross weight, freight revenue, name of vessel, operator of vessel, and date of loading. The register shall be maintained current and organized so that adherence to the Cargo Preference Act can be ascertained at all times. To the maximum practicable extent, compliance with the 50-percent minimum requirements of the Cargo Preference Act shall be maintained on a quarter-year basis; any deficiencies in maintaining compliance shall be corrected by the end of the calendar year.

(ii) On the basis of the registers maintained under paragraph (d)(i) of this section, the official maintaining the register shall submit quarterly reports reflecting ocean shipments to the Division of

**PART 1850
EXTRAORDINARY CONTRACTUAL ACTIONS**

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**PART 1850
EXTRAORDINARY CONTRACTUAL ACTIONS**

Subpart 1850.2--Delegation of and Limitations on Exercise of Authority

1850.202 Contract adjustment boards.

14 CFR Part 1209, Subpart 3, Contract Adjustment Board, establishes the Contract Adjustment Board (CAB) as the approving authority to consider and dispose of requests from NASA contractors for extraordinary contractual actions.

Subpart 1850.3--Contract Adjustments

1850.305 Processing cases.

1850.305-70 Submission of request to the Contract Adjustment Board.

(a) After investigating the facts and issues relevant to the contractor's request, the contracting officer shall forward the request to the Associate General Counsel for General Law (Code GG), including in the forwarding letter --

- (1) The nature of the case;
- (2) The recommended disposition; and,

(3) If contractual action is recommended, the contracting officer's opinion that the action will facilitate the national defense.

(b) The forwarding letter shall enclose the contractor's request, all supporting material submitted by the contractor, and any material the contracting officer has obtained while investigating the facts and issues relevant to the request. Any classified information in the material forwarded shall be so identified.

(c) Electronic submittal is preferred for unclassified material.

1850.306 Disposition.

1850.306-70 Implementation of the Contract Adjustment Board's decision.

(a) The contracting officer shall take action authorized in the CAB's decision.

(b) Immediately upon execution, including any required Headquarters approval, of a contract or contract modification or amendment implementing the CAB decision, the contracting officer shall forward a copy of the contractual document to the Associate General Counsel for General Law (Code GG).

Subpart 1850.4--Residual Powers

1850.403 Special procedures for unusually hazardous or nuclear risks.

1850.403-1 Indemnification requests.

~~(a) Contractor indemnification requests must be submitted to the cognizant contracting officer for the contract for which the indemnification clause is requested. Contractors shall submit a single request and shall ensure that duplicate requests are not submitted by associate divisions, subsidiaries, or central offices of the contractor.~~

(a) Contractor indemnification requests must be submitted to the cognizant contracting officer for the contract for which the indemnification clause is requested. Contractors shall submit a single request and shall ensure that duplicate requests are not submitted by associate divisions, subsidiaries, or central offices of the contractor.

(b) The contractor shall also provide evidence, such as a certificate of insurance or other customary proof of insurance, that such insurance is either in force or is available and will be in force during the indemnified period.

1850.403-170 Subcontractor indemnification requests.

Subcontractors shall submit requests for indemnification to the prime contractor and through higher tier subcontractor(s), as applicable. If the prime contractor agrees an indemnity clause should be flowed down to the subcontractor, the prime contractor shall forward its written request for subcontractor indemnification to the cognizant contracting officer for approval in accordance with FAR 50.403-1. The prime contractor's request

shall provide information responsive to 1850.403-1, FAR 50.403-1, and FAR 50.403-2(a)(1), (2), (4), (5) and (7). The agreed upon definition of the unusually hazardous risk to be incorporated into the subcontract shall be the same as that incorporated in the prime contract.

1850.403-2 Action on indemnification requests.

(a) If recommending approval, the contracting officer shall forward the required information to the Assistant Administrator for Procurement (Code HS), along with the following:

(i) For contracts of five years duration or longer, a determination, with supporting rationale, whether the indemnification approval and insurance coverage and premiums should be reviewed for adequacy and continued validity at points in time within the extended contract period.

(ii) A recommended Memorandum of Decision. In addition to the applicable requirements of FAR 50.306, the Memorandum of Decision shall contain the following:

—

(A) The specific definition of the unusually hazardous risk to which the contractor is exposed in the performance of the contract(s);

(B) A complete discussion of the contractor's financial protection program; and

(C) The extent to, and conditions under, which indemnification is being approved for subcontracts.

(d) If approving subcontractor indemnification, the contracting officer shall document the file with a memorandum for record addressing the items set forth in FAR 50.403-2(a) and include an analysis of the subcontractor's financial protection program. In performing this analysis, the contracting officer shall take into consideration the availability, cost, terms and conditions of insurance in relation to the unusually hazardous risk.

1850.470 Lead NASA installation.

(a) Contractors applying for indemnification shall determine which NASA installation has the highest dollar amount of contracts for which indemnification is requested. The indemnification request should be submitted to the procurement officer for that installation, who will then designate a cognizant contracting officer. Contractors shall submit a single request and ensure duplicate requests are not submitted by associate divisions, subsidiaries, or central offices of the contractor.

(b) The receiving installation will become the lead installation and will remain so indefinitely. Lead installation designation may change to another installation if the affected procurement officers agree to the change. Should a change occur in the lead installation, all records related to indemnification of that contractor shall be transferred to the gaining installation.

**Subpart 1851.2--Contractor Use of Interagency Fleet Management System (IFMS)
Vehicles**

1851.202 Authorization.

(a) In accordance with ~~NPR-NPR~~ 6200.1, “NASA Transportation and General Traffic Management”, the contracting officer shall obtain concurrence from the Transportation Officer before authorizing a contractor to obtain Government-owned or -leased vehicles and related services.

1851.205 Contract clause.

When the clause at FAR 52.251-2 is included in a solicitation or contract, also include the clause set forth at 1852.223-76.

1852.213-70 Offeror Representations and Certifications—Other Than Commercial Items.

As prescribed in 1813.302-570, insert the following provision:

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—OTHER THAN COMMERCIAL ITEMS

(JULY ~~2004~~2004)

(a) *Definitions.* As used in this provision--

"Emerging small business" means a small business concern whose size is no greater than 50 percent of the numerical size standard for the NAICS code designated.

"Forced or indentured child labor" means all work or service--

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

"Service-disabled veteran-owned small business concern" --

(1) Means a small business concern--

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

—(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

"Veteran-owned small business concern" means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern--

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(b) Taxpayer Identification Number (TIN) (26 U.S.C. 6109, 31 U.S.C. 7701).

(1) All offerors must submit the information required in paragraphs (b)(3) through (b)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c)

and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationships with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) *Taxpayer Identification Number (TIN).*

☐ TIN: _____.

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization.*

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ Foreign government;

☐ International organization per 26 CFR 1.6049-4;

☐ Other _____.

(5) *Common parent.*

☐ Offeror is not owned or controlled by a common parent;

☐ Name and TIN of common parent:

Name _____.

TIN _____.

(c) Offerors must complete the following representations when the resulting contract will be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) *Veteran-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern.* [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.

(4) *Small disadvantaged business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, for general statistical purposes, that it ☐ is, ☐ is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [] is, [] is not a women-owned small business concern.